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### **OFFICE OF PETITIONS**

Application No. 10/658,190 : OF

Filed: September 10, 2003 : PATENT TERM ADJUSTMENT

Atty Docket No. 9683/259 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)," filed November 27, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred fourteen (714) days to seven hundred sixty (760) days.

The application for patent term adjustment is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **seven hundred sixty** (760) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On August 28, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 714 days. On November 27, 2007, applicants timely submitted the instant application for patent term adjustment<sup>1</sup>. Applicants dispute the reduction of 50 days associated with the filing of a response after non-final Office action received July 2, 2007. Applicants point out that the original Office action was re-mailed and the period for response

PALM records indicate that the Issue Payment was also filed on November 27, 2007.

restarted on March 28, 2007. Further, although their response was filed outside of three months of the mailing date of the remailed Office action, the period of reduction under 37 CFR 1.704(b) is 4 days, not 50 days.

Applicants state that the application is not subject to a terminal disclaimer.

In this instance, applicants are correct that any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As their response was received outside of three months of the Letter Restarting Period for Response (the re-mailed Office action) by 4 days, the applicant delay within the meaning of \$1.704(b) has been corrected to 4 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 760 days.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

lancy Johnson

Senior/Petitions Attorney

Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

Day: Thursday Date: 1/31/2008



# PALM INTRANET

Time: 11:30:30

PTA Calculations for Application: 10/658190					
Application Filing Date: 09/10/2003	PTO Delay (PTO):	764			
Issue Date of Patent:	Three Years:	0			
Pre-Issue Petitions: 0	Applicant Delay (APPL):	50			
Post-Issue Petitions: 0	Total PTA (days):	760			
PTO Delay Adjustment: 46					

	File Contents History						
Number	Date	Contents Description	PTO	APPL	START		
54	01/31/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	50				
53	01/31/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		4			
46	08/28/2007	MAIL NOTICE OF ALLOWANCE					
45	08/28/2007	MAIL EXAMINER'S AMENDMENT					
44	08/25/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED					
43	08/21/2007	DOCUMENT VERIFICATION					
42	08/21/2007	ISSUE REVISION COMPLETED					
41	08/17/2007	EXAMINER'S AMENDMENT COMMUNICATION					
40	08/17/2007	NOTICE OF ALLOWABILITY					
39	07/11/2007	DATE FORWARDED TO EXAMINER					
38	07/02/2007	RESPONSE AFTER NON-FINAL ACTION		50	34		
	03/28/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD					
36	03/26/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)					
35	03/20/2007	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)					
34	02/13/2007	MAIL NON-FINAL REJECTION					
33	02/09/2007	NON-FINAL REJECTION					
32	01/26/2007	DATE FORWARDED TO EXAMINER					
31	01/22/2007	RESPONSE TO ELECTION / RESTRICTION FILED					
30	01/22/2007	REQUEST FOR EXTENSION OF TIME - GRANTED					
29	12/14/2006	MAIL RESTRICTION REQUIREMENT	764		-1		
28	12/11/2006	REQUIREMENT FOR RESTRICTION / ELECTION					
27		INFORMATION DISCLOSURE STATEMENT CONSIDERED					

26	12/09/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED		
25	03/17/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED		
24	09/20/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED		
23	10/28/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED		
22	10/10/2006	CASE DOCKETED TO EXAMINER IN GAU		
21	06/12/2006	CORRESPONDENCE ADDRESS CHANGE		
20	06/12/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)		
19	04/04/2006	CASE DOCKETED TO EXAMINER IN GAU		
18	03/21/2006	CASE DOCKETED TO EXAMINER IN GAU		
17.7		INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
17	10/28/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
16	09/20/2005	REFERENCE CAPTURE ON IDS		
15.7	09/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
15	09/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
14	09/22/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE		
13	09/22/2005	CASE DOCKETED TO EXAMINER IN GAU		
12	09/10/2003	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)		
11.7	03/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
11	03/17/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
10.7	12/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
10	12/09/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
9.7	12/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
9	12/10/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
8	12/12/2003	APPLICATION RETURN FROM OIPE		
7	12/12/2003	APPLICATION RETURN TO OIPE		

6	12/11/2003	APPLICATION DISPATCHED FROM OIPE		
5	12/12/2003	APPLICATION IS NOW COMPLETE		
4	11/23/2003	CASE CLASSIFIED BY OIPE		
3	11/23/2003	CLEARED BY OIPE CSR		
2	10/12/2003	IFW SCAN & PACR AUTO SECURITY REVIEW		
1	09/10/2003	INITIAL EXAM TEAM NN		

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## **EXPLANATION OF PTA CALCULATION**

## **EXPLANATION OF PTE CALCULATION**

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